IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.802 OF 2006

Rajendra Manikrao Dambre ..Appellant

V/s.

Malabai Devidas Padmane and other ..Respondents

Mr..A.Thorat and P.J.Thorat, advocates for appellant

Coram : D.G.Karnik, J

Date : 21st November, 2006

P.C.

1. Heard learned counsels for the appellant. This appeal is directed against the order dated 24th July, 2006 passed by learned judge of the City Civil Court returning the plaint to the appellant for presentation to the proper Court.

2. The trial Court has held that the trial Court had no pecuniary jurisdiction to entertain and try the suit, on the basis of the value of the property. In the suit, plaintiff had claimed declaration that the suit premises known as Vatsalabai Dambre Chawl was the self acquired

property of Smt.Vatsalabai Dambre and the plaintiff had 1/6th share therein. Plaintiff had further claimed declaration that the deed of gift executed by Manikrao of the suit property was not binding on him. Plaintif also claimed partition and separate possession of his 1/6th share in the suit property. The trial Court after careful consideration of the evidence came to the conclusion that the value of the suit property was Rs.4,37,000/- and plaintiff's 1/6th share therein would be more than Rs.50,000/-. The trial Court accordingly held that it had no pecuniary jurisdiction to entertain and try the suit.

3. I heard learned counsel for the appellant. Learned counsel for the appellant did not advance any argument regarding value of the suit property. He only submitted that on account the valuation the Plaint could not be returned and could only be rejected under O.7, R.11 of the C.P.C. I unable to agree. This is not the case of mere under valuation but on proper value of the suit exceeds pecuniary jurisdiction of the Court. As it exceeds pecuniary jurisdiction of the trial Court had no

jurisdiction to entertain and try the suit and therefore, course adopted by the trial Court for return of the plaint to the appellant cannot be said to be illegal. For these reasons there is no merit in the appeal which is hereby dismissed.

(D.G.Karnik, J.)